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OFFICE OF PETITIONS

In re Application of :
Howard Fingerhut :
Application No. 10/021,098 :
Filed: December 12, 2001 :
Attorney Docket No. 00345/ATTWP273US :

ON PETITION

This is a decision on the petition filed February 2, 2010 to revive the above-identified application and on the request for refund filed on even date. The petition is being treated as a petition to withdraw the holding of abandonment under 37 CFR 1.181, in accordance with the reasoning of the decision in Delgar Inc. v. Schuyler, 172 USPQ 513.

The petition under 37 CFR 1.181 is **GRANTED**.

This application became abandoned for failure to pay the issue fee on or before September 26, 2009 as was required by the Notice of Allowance mailed June 26, 2009. This application therefore became abandoned on September 29, 2009. Accordingly, a Notice of Abandonment was mailed October 13, 2009.

Petitioner claims that the Notice of Allowance was not received because a previously filed Power of Attorney and Change of Address were not processed.

A review of the file reveals however that a power of attorney and address change was filed on March 9, 2009 but that the information was not updated prior to the mailing of the Notice of Allowance and Notice of Allowability on June 26, 2009. Thus, the Office Action was mailed to the wrong address and as petitioners claim, not received.

In view of the above, no petition fees are due and a refund in the amount of \$1620 will be processed to the credit card used.

The Notice of Abandonment is withdrawn and since the issue fee has been paid with the instant petition, this matter is being referred to the Publishing Division to be processed into a patent.

Telephone inquiries concerning this matter should be directed to the undersigned Petitions Attorney at (571) 272-3212.



Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions